



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EPA-R03-OAR-2014-0568; FRL-9917-72-Region 3]

Outer Continental Shelf Air Regulations Consistency Update for Maryland

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve an update to a portion of the Outer Continental Shelf (OCS) Air Regulations for Maryland. Requirements applying to OCS sources located within 25 miles of States' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (COA), as mandated by the Clean Air Act, as amended in 1990 (CAA or the Act). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which Maryland is the designated COA. The intended effect of approving the OCS requirements for the Maryland Department of the Environment is to regulate emissions from OCS sources in accordance with the requirements onshore.

DATES: This rule is effective on **[insert date 60 days after publication in the Federal Register]** without further notice, unless EPA receives adverse written comment by **[insert date 30 days after publication in the Federal Register]**. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the Federal Register and inform the public that the rule will not take effect. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of **[insert date 60 days after**

publication in the Federal Register.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2014-0568 by one of the following methods:

- A. www.regulations.gov. Follow the on-line instructions for submitting comments.
- B. E-mail: campbell.dave@epa.gov.
- C. Mail: EPA-R03-OAR-2014-0568, Dave Campbell, Associate Director, Office of Permits and Air Toxics, Mailcode 3AP10, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.
- D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2014-0568. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of

the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index.

Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Cathleen Van Osten, (215) 814-2746, or by e-mail at vanosten.cathleen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On September 4, 1992, EPA promulgated 40 CFR part 55 which established requirements to

control air pollution from OCS sources in order to attain and maintain Federal and state ambient air quality standards and to comply with the provisions of part C of title I of the CAA. Forty CFR part 55 applies to all OCS sources offshore of the states except those locations in the Gulf of Mexico west of 87.5 degrees longitude. Section 328 of the CAA requires that for such source locations within 25 miles of a state's seaward boundary, the requirements shall be the same as would be applicable if the source were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to 40 CFR 55.12 of the OCS rule, consistency reviews will occur: (1) at least annually; (2) upon receipt of a Notice of Intent under 40 CFR 55.4; or (3) when a state or local agency submits a rule to EPA to be considered for incorporation by reference in 40 CFR part 55. This proposed action is being taken in response to requirements submitted by Maryland. Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into 40 CFR part 55 as they exist onshore. This limits EPA's flexibility in deciding which requirements will be incorporated into 40 CFR part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into 40 CFR part 55 that do not conform to all of EPA's state implementation plan (SIP) guidance or certain requirements of the Act. Consistency updates may result in the inclusion of state or local rules or regulations into 40 CFR part 55, even though the same rules may ultimately

be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the Act for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

II. EPA's Evaluation

EPA reviewed Maryland's rules for inclusion in 40 CFR part 55 to ensure that they are rationally related to the attainment or maintenance of federal or state ambient air quality standards or part C of title I of the CAA; that they are not designed expressly to prevent exploration and development of the OCS; and that they are applicable to OCS sources. EPA has also evaluated the rules to ensure they are not arbitrary or capricious. In addition, EPA has excluded administrative or procedural rules¹ and requirements that regulate toxics which are not related to the attainment and maintenance of Federal and State ambient air quality standards.

III. Final Action

EPA is taking direct final action to incorporate the applicable provisions of the Code of Maryland Regulations into 40 CFR part 55 as required under section 328(a)(1) of the CAA. EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's Federal Register, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on **[insert date 60 days from date of publication in the Federal Register]** without further notice unless EPA receives adverse comment by **[insert date 30 days from date of publication in the**

¹ Each COA that has been delegated the authority to implement and enforce 40 CFR part 55 will use its administrative and procedural rules as onshore. However, in those instances where EPA has not delegated authority to implement and enforce 40 CFR part 55, EPA will use its own administrative and procedural requirements to implement the substantive requirements.

Federal Register]. If EPA receives adverse comment, EPA will publish a timely withdrawal in the Federal Register informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of Maryland Regulations described in the amendments to 40 CFR part 55 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

V. Statutory and Executive Order Reviews

A. General Requirements

Under the Clean Air Act, the Administrator is required to establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore air control requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into 40 CFR part 55 as they exist onshore. 42 U.S.C. 7627(a)(1); 40 CFR 55.12. Thus, in promulgating OCS consistency updates, EPA's role is to maintain consistency between OCS regulations and the regulations of onshore areas, provided that they meet the criteria of the Clean Air Act. Accordingly, this action simply updates the

existing OCS requirements to make them consistent with requirements onshore, without the exercise of any policy discretion by EPA. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65

FR 67249, November 9, 2000), because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, nor does it impose substantial direct compliance costs on tribal governments, nor preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days from date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of

proposed rulemaking for this action published in the proposed rules section of today's Federal

Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedures, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Outer Continental Shelf, Ozone, Particulate matter, Permits, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 10, 2015

William C. Early, Acting
Regional Administrator,
Region III.

Editorial Note: This document was received for publication by the Office of the Federal Register on October 21, 2015.

Accordingly, 40 CFR Part 55 is amended as follows:

PART 55—OUTER CONTINENTAL SHELF AIR REGULATIONS

1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401, *et seq.*) as amended by Public Law 101-549.

2. Section 55.14 is amended as follows:

a. By adding paragraph (d)(10).

b. By revising paragraph (e) introductory text.

c. By adding paragraph (e)(10).

§ 55.14 Requirements that apply to OCS sources located within 25 miles of States' seaward boundaries, by State.

* * * * *

(d) * * *

(10) Maryland.

(i) 40 CFR part 52, subpart V.

(ii) [Reserved]

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(e) *State and local requirements.* State and local requirements promulgated by EPA as applicable to OCS sources located within 25 miles of States' seaward boundaries have been compiled into separate documents organized by State and local areas of jurisdiction. These documents, set forth below, are incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register Office in accordance with 5 U.S.C. 552 (a) and 40 CFR part 51. Copies may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to:

http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Copies of rules pertaining to particular States or local areas may be inspected or obtained from the EPA Docket Center-Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20004 or the appropriate EPA regional offices: U.S. EPA, Region I (Massachusetts) 5 Post Office Square, Boston, MA 02109-3912; U.S. EPA, Region III (Delaware, Maryland, and Virginia) 1650 Arch Street, Philadelphia, PA 19103, (215) 814-5000; U.S. EPA, Region 4 (Florida and North Carolina), 61 Forsyth Street, Atlanta, GA 30303; U.S. EPA, Region 9 (California), 75 Hawthorne Street, San Francisco, CA 94105; and U.S. EPA Region 10 (Alaska), 1200 Sixth Avenue, Seattle, WA 98101. For an informational listing of the State and local requirements incorporated into this part, which are applicable to sources of air pollution located on the OCS, see appendix A to this part.

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(10) Maryland.

(i) State requirements.

(A) State of Maryland Requirements Applicable to OCS Sources, January 8, 2014.

(B) [Reserved]

(ii) Local requirements.

(A) [Reserved]

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3. In Appendix A to part 55, add an entry for Maryland in alphabetical order to read as follows:

Appendix A to Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, By State

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Maryland:

(a) State requirements.

(1) The following State of Maryland requirements are applicable to OCS Sources, January 8, 2014, State of Maryland-Department of the Environment. The following sections of Code of Maryland Regulations (COMAR) Title 26 Subtitle 11:

COMAR 26.11.01- General Administrative Provisions (Effective as of July 08, 2013)

COMAR 26.11.02- Permits, Approvals, and Registrations (Effective as of December 20, 2012)

COMAR 26.11.03- Permits, Approvals, and Registration- Title V Permits (Effective as of November 12, 2010)

COMAR 26.11.05- Air Pollution Episode System (Effective as of November 12, 2010)

COMAR 26.11.06- General Emission Standards, Prohibitions, and Restrictions (Effective as of July 08, 2013)

COMAR 26.11.07- Open Fires (Effective as of November 12, 2010)

COMAR 26.11.08- Control of Incinerators (Effective as of November 26, 2012)

COMAR 26.11.09- Control of Fuel-Burning Equipment, Stationary Internal Combustion Engines and Certain Fuel-Burning Installations (Effective as of September 16, 2011)

COMAR 26.11.13- Control of Gasoline and Volatile Organic Compound Storage and Handling (Effective as of November 12, 2010)

COMAR 26.11.15- Toxic Air Pollutants (Effective as of November 12, 2010)

COMAR 26.11.16- Procedures Related to Requirements for Toxic Air Pollutants (Effective as of November 12, 2010)

COMAR 26.11.17- Nonattainment Provisions for Major New Sources and Major Modifications
(Effective as of July 08, 2013)

COMAR 26.11.19- Volatile Organic Compounds from Specific Processes (Effective as of
November 09, 2012)

COMAR 26.11.20- Mobile Sources (Effective as of November 12, 2010)

COMAR 26.11.26- Conformity (Effective as of November 12, 2010)

COMAR 26.11.33- Architectural Coatings (Effective as of November 12, 2010)

COMAR 26.11.35- Volatile Organic Compounds from Adhesives and Sealants (Effective as of
November 12, 2010)

COMAR 26.11.36- Distributed Generation (Effective as of June 13, 2011)

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Date: 10/27/2015]